

In the United States Bankruptcy Court

for the

Southern District of Georgia

Savannah Division

FILED

at 9 O'clock & 28 min AM  
Date 12/21/99

MICHAEL F. McHUGH, CLERK  
United States Bankruptcy Court  
Savannah, Georgia *MB*

In the matter of: )  
 )  
LORENZO D. CHISHOLM )  
SONYA P. CHISHOLM )  
 )  
Debtors )

Chapter 13 Case

Number 99-40924

**ORDER ON OBJECTION TO CLAIM  
OF EXEMPTIONS BY THE TRUSTEE**

Debtor, Lorenzo D. Chisholm, obtained a judgment arising out of the alleged wrongful repossession of a vehicle titled in Mr. Chisholm's name only. Mrs. Chisholm, a co-debtor in the case, but not a plaintiff in the damage suit, and Mr. Chisholm, the Debtor, claim an exemption in the amount of \$5,400.00 each, or \$10,800.00 in the settlement proceeds.

The Trustee objects to the claim of exemption in light of the fact that Mrs. Chisholm did not have any legal title or other ownership interest in the vehicle which was the subject of the litigation. Debtor requested time to find authority for the proposition that a co-debtor who is not an owner of property can nevertheless claim the benefit of an exemption in that property. No brief was filed, most likely because no persuasive authority can be found to support this proposition. Indeed the language of 11 U.S.C. § 522 is clear. Property which is subject to a claim of exemption, an enumerated list of

property, is all predicated by the words "the debtor's interest," "the debtor's aggregate interest" or similar words. While joint cases may be filed, under 11 U.S.C. § 302, by an individual debtor and the debtor's spouse, there is no provision in the Code which allows one spouse to claim property of the other as part of the first spouse's exemption.

Accordingly, the Trustee's objection is sustained. The \$5,400.00 previously authorized to be released to the Debtor Lorenzo D. Chisholm remains the exempt property of Mr. Chisholm. The remaining \$5,400.00 held by the Trustee pending further order shall be distributed as follows: (1) Such sums of money as are necessary, if any, to bring the case current shall be deducted from the \$5,400.00 and disbursed by the Trustee in the ordinary order of distribution to secured and priority claims. (2) The balance of the \$5,400.00 shall be distributed pro-rata to the holders of unsecured claims in the case.



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Lamar W. Davis, Jr.  
United States Bankruptcy Judge

Dated at Savannah, Georgia

This 17<sup>th</sup> day of December, 1999.